

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Kilgore Video, Inc.)	File No. EB-02-DL-0184
)	
Owner of Antenna Supporting Structure 1054515))	NAL/Acct.No. 200232500004
)	
Kilgore, TX)	FRN 0005-0287-41

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: **June 11, 2002**

By the Enforcement Bureau, Dallas Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Kilgore Video, Inc. ("Kilgore Video"), owner of antenna structure number 1054515, willfully violated Section 17.50 of the Commission's Rules ("Rules").¹ Kilgore Video failed to maintain specified painting on their registered antenna supporting structure. We conclude Kilgore Video is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. Kilgore Video is the registered owner of antenna supporting structure with Antenna Structure Registration ("ASR") number 1054515 located near Kilgore, Texas at geographical coordinates 32° 21' 07"N / 094° 51'06"W. This structure's ASR specifies that the structure be painted.

3. On April 19, 2002, an agent from the Commission's Dallas Office inspected Kilgore Video's antenna structure number 1054515 near Kilgore, Texas. The agent observed that the required painting on the antenna structure was faded such that it significantly failed to provide good visibility.

III. DISCUSSION

4. Section 17.50 of the Rules states that "[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility." On April 19, 2002,

¹ 47 C.F.R. § 17.50

Kilgore Video's antenna structure number 1054515, which was required to be painted, had significantly faded paint resulting in poor visibility of the structure.

5. Based on the evidence before us, we find that on April 19, 2002, Kilgore Video willfully² violated Section 17.50 of the Rules by failing to clean or repaint its antenna structure as often as necessary to maintain good visibility.

6. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000.³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),⁴ which include the nature, circumstances, extent, and gravity of the violation(s), and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Considering the entire record and applying the statutory factors to the instant case, a \$10,000 forfeiture is warranted.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ Kilgore Video, Inc. is hereby NOTIFIED of their APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Rules.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Kilgore Video, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the letterhead above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau – Technical and Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period;

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80(b)(4)

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311 and 1.80

(2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, DC 20554.⁷

13. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Kilgore Video, Inc., 333 Houston Street, Kilgore, Texas 75662. An additional copy shall be sent to Kilgore Video, Inc. at P.O. Box 2221, Little Rock, Arkansas 72203-2221.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director – Dallas Office

⁷ See 47 C.F.R. § 1.1914.